

DAN S. IKEHARA #4242  
98-084 Kamehameha Highway  
Suite 303B  
Aiea, Hawaii 96701  
Tel: (808) 485-1420  
DSIkehara@aol.com

JOYCE J. UEHARA #3267  
98-084 Kamehameha Highway  
Suite 303B  
Aiea, Hawaii 96701  
Tel: (808) 485-1420  
aiealawoffice@gmail.com

Attorneys for Creditor/Plaintiff  
CAROLYN P. MENDOZA

IN THE UNITED STATES BANKRUPTCY COURT

DISTRICT OF HAWAII

In Re:	)	Case No. 13-01333
	)	(Chapter 7)
DWAYNE K. MENDOZA and	)	
NILA T. MENDOZA,	)	Adv. Proc. No. 16-90020
	)	(Dischargeability – Domestic Support)
Debtors.	)	
	)	PLAINTIFF CAROLYN P.
CAROLYN P. MENDOZA,	)	MENDOZA'S SCHEDULING
	)	CONFERENCE STATEMENT;
	)	CERTIFICATE OF SERVICE
Plaintiff,	)	
	)	
vs.	)	
DWAYNE K. MENDOZA,	)	
	)	
Defendant.	)	
	)	

**PLAINTIFF CAROLYN P. MENDOZA'S  
SCHEDULING CONFERENCE STATEMENT**

COMES NOW, Plaintiff/Creditor CAROLYN P. MENDOZA, by and through her attorneys, DAN S. IKEHARA and JOYCE J. UEHARA, and submits her scheduling conference statement pursuant to Rule 16 of the Federal Rules of Civil Procedure (FRCP), as made applicable in this proceeding by Rule 7016 of the Federal Rules of Bankruptcy Procedure (FRBP), and Rule 7016-1 of the Local Bankruptcy Rules (LBR):

**I. NATURE OF THE CASE**

Plaintiff seeks a determination that a money judgment in favor of Plaintiff and against Defendant/Debtor DWAYNE K. MENDOZA for Defendant's domestic support obligation to Plaintiff is non-dischargeable in this and in all future bankruptcy proceedings. In addition, Plaintiff seeks the entry of a writ of execution or other appropriate order to collect on the judgment.

This case arises from Defendant/Debtor DWAYNE K. MENDOZA's failure to pay spousal support to Plaintiff as ordered by the Family Court of the First Circuit, State of Hawaii. The Family Court entered a money judgment against Defendant in the amount of \$103,511.78 plus interest accruing at the statutory rate. Defendant does not contest the validity of the judgment.

The Clerk of this Court entered default against Defendant on May 20, 2016.

*See* Dkt. #6. Plaintiff filed a motion for entry of default judgment on May 20, 2016. *See* Dkt. #7. Defendant filed a motion to set aside entry of default on May 23, 2016. *See* Dkt. #11.

Defendant's counsel has threatened to file a motion for sanctions against Plaintiff and Plaintiff's counsel, in several filings in this case. *See, e.g.*, Dkt. #11, Pages 8-16. Defendant has not otherwise plead or defended this action.

## **II. JURISDICTION AND VENUE**

This is an adversary proceeding initiated pursuant to Rules 4007 and 7003 of the Federal Rules of Bankruptcy Procedure to determine the dischargeability of a debt pursuant to 11 U.S.C. §§ 523(a)(5) and (15). This Court has subject matter jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I). Venue is proper in this Court pursuant to 28 U.S.C. § 1409(a).

Although the Family Court had jurisdiction to enter the underlying money judgment that forms the basis of Plaintiff's complaint, the Family Court does not have subject matter jurisdiction to determine the dischargeability of a debt. This Court has jurisdiction to determine the dischargeability of the judgment against Defendant, the debtor in the underlying bankruptcy case, under 28 U.S.C. § 157(b)(2)(I).

Venue is proper in this Court under 28 U.S.C. § 1409(a) because Defendant commenced an action in this Court under Title 11 of the United States Code, and that matter is currently pending before this Court.<sup>1</sup>

### **III. DEMAND FOR JURY TRIAL**

Neither party has request eda jury trial.

### **IV. INITIAL DISCLOSURES**

This proceeding is exempt from initial disclosure as an ancillary proceeding under FRCP Rule 26(B)(viii) as made applicable by FRBP Rule 7026.

### **V. DISCOVERY MATTERS**

Plaintiff anticipates that little or no discovery will be required, as there are no disputed material issues of fact regarding Plaintiff's claim. Plaintiff believes that this proceeding may be adjudicated on the pleadings as a matter of law.

### **VI. SPECIAL PROCEDURES**

Plaintiff does not anticipate the need for special procedures.

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<sup>1</sup> Although Plaintiff would not be barred from filing this action to determine dischargeability of a domestic support obligation pursuant to Rule 4007(b) of the Federal Rules of Bankruptcy Procedure, even after this case was closed, Plaintiff notes that the Court reopened Defendant's underlying bankruptcy case on Defendant's motion on December 3, 2015. See Case No. 13-01333, Dkt. #s 88 and 90.

## **VII. RELATED CASES**

The underlying money judgment at issue in this case stems from the divorce action between Plaintiff and Defendant in the Family Court of the First Circuit, State of Hawaii, captioned *Carolyn P. Mendoza v. Dwayne K. Mendoza; FC-D No. 93-1827.*

## **VIII. SETTLEMENT**

Plaintiff is willing to participate in alternative dispute resolution procedures, including mediation through the Bankruptcy Alternative Dispute Resolution Program.

DATED: Bothell, Washington, \_\_\_\_\_ June 11, 2016 \_\_\_\_\_.

/S/ DAN S. IKEHARA \_\_\_\_\_  
DAN S. IKEHARA  
JOYCE J. UEHARA  
Attorneys for Plaintiff/Creditor  
CAROLYN P. MENDOZA

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NILA T. MENDOZA,	)	
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Debtors.	)	
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CAROLYN P. MENDOZA,	)	Adv. Proc. No. 16-90020
	)	(Dischargeability – Domestic Support)
	)	
Plaintiff,	)	CERTIFICATE OF SERVICE
	)	
vs.	)	
	)	
DWAYNE K. MENDOZA,	)	
	)	
Defendant.	)	
	)	

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies a true and correct copy of the foregoing will duly served via U.S. mail, postage prepaid, and via the Court's CM/ECF system, upon the following individuals at their last known address on the filing date hereof:

W. RICHARD ABELMANN  
LARS PETERSON  
Abelmann Peterson Rollins LLLC  
677 Ala Moana Boulevard  
Suite 1009  
Honolulu, Hawaii 96813

Attorneys for Debtor/Defendant  
DWAYNE K. MENDOZA

In addition, pursuant to Rule 7004 of the Federal Rules of Bankruptcy Procedure, a true and correct copy of the foregoing document will be duly served via U.S. mail, postage prepaid, upon Debtor/Defendant DWAYNE K. MENDOZA, at his last known address on the filing date hereof:

DWAYNE K. MENDOZA  
P.O. Box 89104  
Honolulu, Hawaii 96830

Debtor/Defendant

DATED: Bothell, Washington, June 11, 2016.

/S/ DAN S. IKEHARA  
DAN S. IKEHARA  
JOYCE J. UEHARA  
Attorneys for Creditor/Plaintiff  
CAROLYN P. MENDOZA